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# IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

**WRIT PETITION No. 2175 of 2001**

**PETITIONER** : Vedram Sahu, Son of Kirtram Sahu, aged about 37 years, resident of village Kalmi, Tahsil Malkharoda, District Janjgir-Champa (Chhattisgarh)

**VERSUS**

**RESPONDENTS** :

1. The State of Chhattisgarh, through the Secretary, Department of Panchayat & Social Welfare, D.K. Bhawan, Government of Chhattisgarh, Secretariat, Raipur (Chhattisgarh)

2. Director, Panchayat Department, Government of Chhattisgarh, Raipur (Chhattisgarh)

3. Collector, Government of Chhattisgarh, Janjgir-Champa (Chhattisgarh)

4. Sub-Divisional Officer and prescribed Authority under Panchayat Raj Adhiniyam, Sakti, District Janjgir-Champa (Chhattisgarh)

5. Mrs. Bhuribai, Wife of Balakram Sahu, aged about 55 years, Sarpanch, Gram Panchayat Kalmi, Tahsil malkharoda, District Janjgir-Champa (Chhattisgarh)

P.R. No. 2151/01 Presented by Shri V.K. Telgaw dated 9/10/01

Deleted as per Court order dated 2/3/06 (Rukesh Pandey) 6/3/06

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Affes Law

7/3/06

**PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND/OR, NECESSARY DIRECTION/ORDERS.**

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**HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR**

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**Single Bench: Hon'ble Shri Satish K. Agnihotri, J.**

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**W. P. No. 2175 of 2001**

Petitioner : Vedram Sahu

Versus

Respondents : The State of Chhattisgarh & Others

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Shri Rajesh Pandey, counsel for the petitioner.

Shri V.V.S. Moorthy, Deputy Advocate General with Shri Ajay Dwivedi, Panel Lawyer for the State/respondents No.1 to 4.

None for the respondent No.5.

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**ORAL ORDER**

**(17th July, 2006)**

1. The present petition filed under the Article 226/227 of the Constitution of India impugns the order dated 6.8.2001, passed by the Additional Collector, respondent No.3, whereby, the resolution dated 31.3.2000 passed by the Gram Panchayat removing the petitioner from the post of Panchayat Karmi/Secretary was held to be valid and legal.

2. The facts in nutshell are that the petitioner was appointed as Panchayat Karmi on 12.3.1999, by a resolution passed by the Gram Panchayat. The petitioner was thereafter appointed as Secretary of Gram Panchayat, Kalmi, by order dated 26.4.1999 passed by the Collector w.e.f. 12.3.1999. The services of the petitioner as Panchayat

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Karmi/Secretary was removed by the resolution dated 31.3.2000, which was subsequently approved by the Gram Sabha in its special meeting dated 8.4.2000.

3. Learned counsel appearing for the petitioner, submits that removal from the Panchayat services amounts to imposition of major penalty. The Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999, (hereinafter "Panchayat Rules", 1999) clearly provides procedure for imposing major penalties. According to learned counsel for the petitioner, the procedure as prescribed under Panchayat Rules, 1999, was not followed in the present case, before the order of termination and as such the resolution of Gram Panchayat dated 31.3.2000, removing services of the petitioner from the post of Panchayat Karmi/Secretary is illegal, void ab-initio. Subsequently, confirmation by the Gram Sabha in its resolution dated 8.4.2000 is also illegal and bad.

4. The petitioner, being aggrieved by the resolution dated 31.3.2000 passed by the Gram Panchayat and resolution dated 8.4.2000 passed by Gram Sabha, approving the resolution of Gram Panchayat, removing the petitioner from the post of Panchayat Karmi/Secretary, filed an appeal before the Sub Divisional Officer, under the Provisions of the Madhya Pradesh Panchayat (Appeal and Revision) Rules, 1995. The Sub Divisional Officer by his order dated 4.10.2000 came to the conclusion, that there was no resolution on 31.3.2000, as admitted by Smt.

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Bhuri Bai Sarpanch, herself in the inquiry conducted by the Panchayat Officer. The Sub Divisional Officer cancelled the resolution dated 31.3.2000 and allowed the appeal of the petitioner vide order dated 4.10.2000 (Annexure P-3)

5. The petitioner was allowed to work as Panchayat Karmi/Secretary (Annexure P-3). In appeal, the Additional Collector, Janjgir, Champa, by order dated 6.8.2001 in Revision Case No. 4/A-89 (15) 2000-2001 came to the conclusion that the petitioner was given sufficient show cause notice before the resolution dated 31.3.2000 was passed by the Gram Panchayat.

6. The Additional Collector did not consider the observation of Sub Divisional Officer, that in fact there was no resolution at all on 31.3.2000, which was reported by the Panchayat Officer in his report on the basis of statement made by Smt. Bhuri Bai, then Sarpanch. He has also not considered as to whether Provisions of Rule 7 of Panchayat Rules 1999, were followed in its letter and spirit before imposition of major penalty of removal from service.

7. Learned counsel for the petitioner pointed out show cause notices dated 25.3.2000 and 26.3.2000. According to learned counsel for the petitioner, for the first time, the alleged reasons for show cause was given in the show cause notice 26.3.2000.

8. Shri V.V.S. Moorthy, Learned Deputy Advocate General with Shri Ajay Dwivedi, Learned Panel lawyer, submits that the order passed by the Sub Divisional Officer dated 4.10.2000 is correct, as the same was considered on the basis of report submitted by the Panchayat Officer. The Additional Collector in Revision has not considered the material facts while setting aside the order dated 4.10.2000 passed by the Sub Divisional Officer. Learned counsel further submits that admittedly the Provisions of Rule 7 of the Panchayat Rules, 1999, were not followed.

9. A notice was issued by this Court on respondent No.5 on 2.3.2006. Dasti notice was also permitted. Notice was served on respondent No.5 as per affidavit filed by the petitioner on 28.3.2006. Despite service of the notice, the respondent No.5 has chosen not to appear before this Court. Hence, this matter is heard in absence of the respondent No.5, on the basis of documents filed by the petitioner as well as the respondents No.1 to 4.

10. Having heard learned counsel for the parties and having perused the documents appended to the petition, as well as to the return, it is clearly established that no show cause notice as contemplated in Rule 7 of Panchayat Rules, 1999 after framing definite charges on the basis of allegations, was issued to the petitioner. The petitioner was not afforded any opportunity of hearing in true sense before decision was taken to remove the services of the petitioner. The resolution, even if it is passed is contrary

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to the provisions, as prescribed in Rule 7 of Panchayat Rules, 1999.

11. For the reasons stated above, the impugned order dated 6.8.2001 passed by the Additional Collector, is quashed and set aside. The order dated 4.10.2000, passed by the Sub Divisional Officer (Annexure P-3) is restored. The petitioner is entitled to the relief granted by the Sub Divisional Officer in his order dated 4.10.2000.

12. The petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge